

Chapter 3

EU organic farming legislation and its development

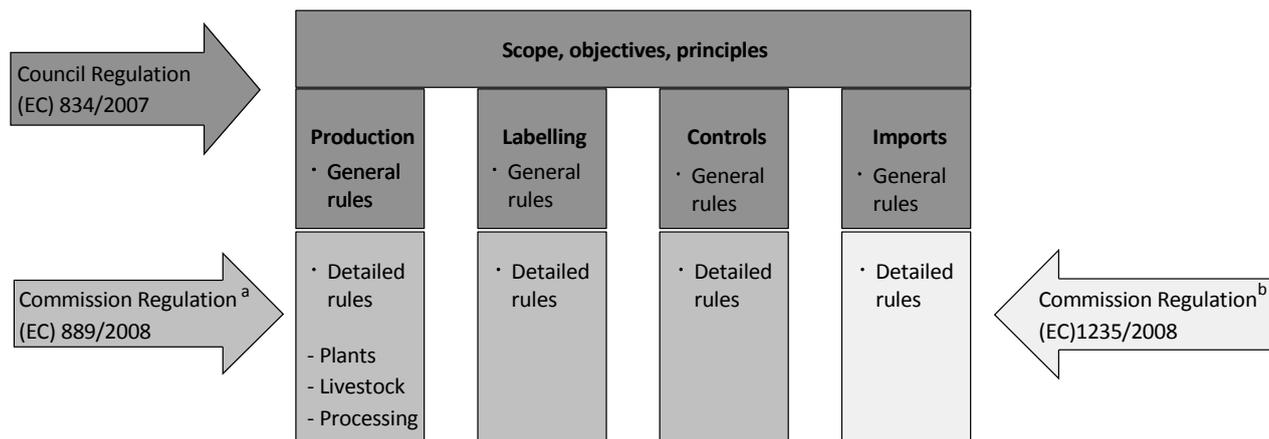
3.1 Introduction

The legislative framework of the EU organic farming sector is determined by Council Regulation (EC) 834/2007 on organic production and labelling of organic products which came into force in January 2009 and repealed Council Regulation (EEC) 2092/91. The organic farming legislation describes the underlying objectives and principles of organic agriculture and sets organic production requirements. The Regulation legally defines what organic farming actually is and formulates certain claims with respect to environmental protection, preservation of natural resources (including biodiversity), application of high animal welfare standards and production method based on natural substances and processes. Furthermore, it defines requirements with regard to controls, trade with third countries (i.e. not EU Member States) and labelling of organic food products and sets a regulatory framework for supply-chain activities. By defining these two areas, the Regulation aims to provide the basis for the sustainable development of organic production.

Detailed rules for the implementation have been laid down in Commission Regulation (EC) 889/2008 on organic production and labelling of organic products and Commission Regulation (EC) 1235/2008 on imports of products from third countries. Since 2009 the legislative framework has been supplemented several times, such as by rules on aquaculture in 2009 (Regulation (EC) 710/2009) and wine production in 2012 (Regulation (EC) 203/2012) both amending Regulation (EC) 889/2008. An overview of the present legislative framework of the EU organic farming sector is given in Figure 3.1. Compared to its predecessor, the new regulatory framework follows the general structure of Community legislation laying down clear competences to the Council (basic issues) and the Commission (adjustment of technical rules and updating the list of inputs allowed in organic farming).

The legal framework itself is embedded in the general rules on agricultural production, processing, marketing, labelling and controls such as Regulation (EC) 882/2004 (Controls and compliance with feed and food law, animal health and animal welfare rules) or Regulation (EU) 1169/2011 (Provision of food information to consumers), which apply to organic operators as well.

In the following, the objectives and principles as laid down in the Regulation are described. Furthermore, major changes of the legislation as compared to the legislation applied to organic farming prior to 2009 are highlighted.

Figure 3.1: Overview of the EU legislative framework of organic farming

^a Amended by Commission Regulation (EC) 1254/2008 + 334/2011 + 426/2011 + 126/2012 + 505/2012 (Organic production, labelling and control), Commission Regulation (EC) 710/2009 (Organic aquaculture and seaweed production), Commission Regulation (EC) 271/2010 (Organic production logo), Commission Regulation (EC) 203/2012 (Organic wine production) and Commission Regulation (EC) 392/2013 (Control system for organic production).

^b Amended by Commission Regulation (EC) 537/2009 + 471/2010 + 590/2011 + 1084/2011 + 1267/2011 + 126/2012 + 508/2012 + 751/2012 + 1251/2013 (Trade with third countries).

Source: Own illustration adapted from European Commission (2012).

3.2 Objectives and principles of organic farming

The normative basis of organic farming is laid down in a number of objectives and principles. Accordingly organic production shall pursue the following three objectives (Article 3-7 of Council Regulation (EC) 834/2007):

- establish a sustainable management system for agriculture;
- aim at producing products of high quality; and
- aim at producing a wide variety of foods and other agricultural products that respond to consumers' demand for goods produced by the use of processes that do not harm the environment, human health, plant health or animal health and welfare.

Furthermore, organic farming is to be based on the following four overall principles:

- the appropriate design and management of biological processes based on ecological systems using natural resources;
- the restriction of the use of external inputs;
- the strict limitation of the use of chemically synthesised inputs to exceptional cases;
- the adaptation, where necessary, of the rules of organic production taking account of sanitary status, regional differences in climate and local conditions, stages of development and specific husbandry practices.

In addition, specific principles are defined for farming, processing of organic food and processing of organic feed. The objectives and principles are implemented through various production rules as well as rules on controls, labelling and trade with third countries. The definition of objectives and principles is a new element of the EU legislation on organic farming, which shapes the basic orientation of the organic sector towards sustainability and food quality. However, an explicit link between objectives and principles and the production rules is not given in the Regulation.

As laid down in Article 1, the rules apply to products originating from agriculture and aquaculture, i.e. live and unprocessed agricultural products, processed agricultural products for use as food and feed as well as vegetative propagating material and seeds for cultivation. Compared to Regulation (EEC) 2092/91, the scope of the current organic legislation also covers organic yeasts for food and feed, organic aquaculture and organic wine. Not covered by the Regulation are products of hunting and fishing of wild animals as well as mass catering, which can however be regulated by national law, and non-agricultural products that are not included in Annex I of the EU Treaty (and therefore not subject to the CAP).

3.3 Specific rules

Production rules

Corresponding to the objectives and principles of organic production, the production rules (Article 11 – 22 of Council Regulation (EC) 834/2007) lay down provision for:

- plant production (e.g. cultivation practices, fertilisation strategies, prevention techniques to avoid disease, seeding strategies);
- livestock production including aquaculture animals (e.g. husbandry practices and housing conditions, breeding strategies, feeding rules and provision with regard to disease prevention and veterinary treatments);
- production of seaweed (e.g. collection and cultivation practices); as well as
- production of processed feed and food (e.g. separate handling from non-organic feed and food, restricted substances and techniques).

Furthermore, specific arrangements are made with regard to the conversion period as well as products and substances used in organic farming and the criteria for their authorization. According to their nature, production rules are obligations (most common type), restrictions, prohibitions or permissions (see Figure 5.3).

The system of derogations no longer exists that was in place in the legislation prior to 2009. It has been replaced by either permanent rules, or by exceptional production rules, which are limited either for a certain time or under certain conditions. For example, non-organic feed can only be

used until a certain date instead of allowing a certain proportion of non-organic ingredients in the diet for certain animal species.

Labelling

In order to create more transparency for consumers, the Regulation contains rules on labelling of organic products (Article 23 – 26). Accordingly, the use of terms referring to organic production is restricted to products that are produced in accordance with the rules laid down in the organic farming legislation. In the case of processed food, at least 95 % by weight of its ingredients of agricultural origin must be organic. Furthermore, the labelling rules prescribe that certain product indications are compulsory. This includes the code number of the involved control body, the new Community organic production logo and an indication of the place where the agricultural raw materials were farmed, the last two had not been required before.

Controls

The legislation on organic farming requires that all activities performed by operators at all stages of production, preparation and distribution of organic products are subject to a control system. This has to be set up and managed to conform to the rules on official controls on food and feed law. It defines a number of requirements with regard to the set-up of the control system, adherence to the control system, documentary obligations, measures in the case of infringements and irregularities as well as rules on the exchange of information (Article 27 – 31).

The overall control system consists of two elements: a) the annual on-site controls of organic operators and b) the public surveillance system, which in turn encompasses the entire EU framework of activities of national competent authorities and accreditation bodies to supervise and monitor the organic control system at the level of the control bodies.

Accordingly, Member States must designate one or more competent authorities responsible for the controls. These competent authorities may delegate control tasks to private control bodies under certain conditions (e.g. with regard to an effective coordination between the competent authority and the control body or with regard to the technical capacity of the control body). The rules on controls stipulate that all organic operators at various stages of the supply-chain must submit their activities to the control system and specify the kind of documentary evidence that is required from them and from the control bodies. In the case of irregularities, the rules foresee that products cannot be marketed as organic. If a severe infringement is found, the control authority or body may prohibit the operator from marketing organic products for a certain period. In order to guarantee that a product is produced organically, it is required that competent authorities, control authorities and control bodies exchange relevant information on the results of the controls – particularly if irregularities or infringements occur.

Compared to the legislation applied to organic farming prior to 2009, the link to the Official Food and Feed Control (OFFC) has been made more explicit. Accreditation to the European Standard EN 45011 or ISO 65 (international standards for certification) is now mandatory for control bodies

in the EU. Furthermore, the risk based approach of the OFFC can be applied to organic farming as well.

Trade with countries outside the EU (third countries)

Since international trade with organic products is of increasing importance due to the growth of the organic sector and increasing demand, legal arrangements are made for the trade with third countries (Article 32 – 33). The Regulation specifies two different approaches for this. First, products from third countries may be placed on the market as organic, provided that production and control requirements comply exactly with Regulation (EU) 834/2007. Proof of compliance is provided through inspections of control bodies that are authorised by the EU. Applications for recognition under this option have to be submitted until 31 October 2014. However, this compliance approach is not yet implemented. Second, organic products from outside the EU may be sold as organic in the EU if production rules and control requirements are equivalent to the EU rules. Thus, organic products may be imported, if the applied rules are not exactly the same but in line with the principles and objectives of organic farming as laid down in the Regulation. This approach recognises that production conditions in countries outside the EU can be different from those within. The equivalency is recognised either by bilateral agreements (i.e. in this case, the country in question is included in the EU list of third countries) or by control bodies which are approved and supervised for this purpose by the EU Commission. For a transitional period until 1 July 2014 equivalence can also be confirmed by Member States authorities at the request of an importer located in the EU (import authorisation). This option was the most relevant import procedure under the previous organic regulation.